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July 1, 2021

Judge Jennifer L. Hall
J. Caleb Boggs Federal Building
844 N. King Street
Unit 17
Room 3124
Wilmington, DE 19801-3555

Re: Szubielski v. Pierce, C.A. No. 15-984 JLH

Dear Judge Hall:

The parties have conferred regarding the proposed witness Deputy Warden Phillip Parker and have been unable to reach an agreement.

Plaintiff's position is that Mr. Parker is not a proper witness for trial because he was not identified in initial disclosures or interrogatory responses as required by Rule 26, and Plaintiff did not have an opportunity to depose him.

It is our understanding that Defendant's position is that Mr. Parker was named in prior complaints and produced documents in the matter, thus, Defendant believes Plaintiff had adequate notice of the witness. Additionally, Defendant notes that Plaintiff never objected to the calling of Mr. Parker prior to yesterday's pretrial conference.

Defendant's position that they did not have an obligation to identify Mr. Parker because his name appeared on prior case documents goes too far—if that were the case, a prisoner litigant would be forced to depose every official whose name appears on DOC documents. Plaintiff acknowledges that when we received the State's inserts to the pre-trial memo, on June 9, 2021, Plaintiff did not immediately object to Defendant's naming of Mr. Parker. That fact does not cure, however, the State's failure to identify him during the discovery period and the resulting prejudice to Mr. Szubielski.

Plaintiff respectfully requests the Court rule on this matter.

Thank you for your attention to this matter. Please let us know if the Court requires any further information.

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Respectfully,

A handwritten signature in black ink that reads "Karli Cozen".

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